



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 22, 2014

To: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

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## WASHINGTON, D.C. UPDATE ON CHILD SEX TRAFFICKING LEGISLATION

### Executive Summary

This memorandum is to provide the Board with an update on five bills relating to child sex trafficking that were passed by the House on May 20, 2014:

- H.R. 3530: Justice for Victims of Trafficking Act;
- H.R.4058: Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act;
- H.R. 3610: Stop Exploitation Through Trafficking Act;
- H.R. 4225: Stop Advertising Victims of Exploitation Act; and
- H.R. 4573: International Megan's Law to Prevent Demand for Child Sex Trafficking.

The Senate has not scheduled action on these bills, and, instead, is likely to pass its own child sex trafficking legislation for which there is bipartisan support.

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### **H.R. 3530: Justice for Victims of Trafficking Act**

On May 20, 2014, the House passed, 409 to 0, H.R. 3530 (Poe, R-TX), which seeks to reduce the demand for child prostitutes by making it a Federal crime to patronize or solicit sexual acts from a child prostitute, and to facilitate prosecutions of child sexual exploitation (including pornography) by facilitating the ability of state and local law enforcement to obtain wiretaps.

The bill also creates a new Victim-Centered Sex Trafficking Deterrence Grant Program, which is intended to help state and local governments implement programs to investigate and prosecute child traffickers, provide specialized training, and assist child sex trafficking victims, including through specialized court programs. The duration of the grants, which would be awarded on a competitive basis, is one year, but may be renewed three times with the Federal cost share capped at 70 percent in the first year, 60 percent in the second year, and 50 percent in the third year. H.R. 3530 authorizes up to \$5 million a year for the program in Federal Fiscal Years (FFYs) 2015 through 2019, which is the same authorization level as for the Pilot Program for Residential Treatment Facilities, which it replaces.

The House-passed H.R. 3530 does not include language in the bill, as introduced, which would have established a new funding source for financing services provided to victims of human trafficking or child pornography. The House Judiciary Committee amended the bill on April 30, 2014 to delete provisions, which would have:

- Increased penalties for human trafficking offenses, including financial penalties that would have been deposited into a newly created Domestic Trafficking Victims Fund ("Fund") for financing services to victims; and
- Allocated up to \$7 million a year from this Fund to the bill's new victim-centered grant program in FFYs 2015 through 2019.

The bill's annual authorization level of \$5 million for the victim-centered grant program is so low that it severely limits its value as a potential funding source for the County's Juvenile Court and Probation Department projects for assisting child sex trafficking victims, which expire on December 31, 2014. These projects currently receive a combined total of \$650,000 a year in one-time funding from the State of California's Federal Title II Juvenile Justice Formula Grant. If this new program were fully funded at \$5 million, the Department of Justice (DOJ) probably would cap individual grants at a significantly lower level than \$650,000. In FY 2013, DOJ capped grants for services to human trafficking victims at \$400,000 when it awarded 12 grants totaling \$4,711,493.

**H.R.4058: Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act**

On May 20, 2014, the House passed, by a voice vote, H.R. 4058 (Reichert, R-WA), which seeks to prevent, identify, and address sex trafficking of youth in the foster care system, and which also makes other changes to Title IV-E Foster Care that are not directly related to child sex trafficking. For the most part, the bill's sex trafficking language imposes new IV-E requirements on states, including the following:

- Develop and implement policies and procedures for identifying, screening, and determining appropriate actions and services for children in the child welfare system who may be victims of sex trafficking or are at risk of becoming victims and for providing relevant training for caseworkers. States also are provided a new option to apply these policies and procedures to individuals up to age 26 without regard to whether the individual is or was in foster care;
- Identify and document children in the child welfare system who are victims of sex trafficking or other severe forms of trafficking, and report information on victims of sex trafficking and on missing or abducted children to law enforcement agencies within 24 hours of receiving such information; and
- Develop and implement protocols for locating children who are missing from foster care and determining whether a child had been a possible sex trafficking victim while missing from foster care.

The bill imposes other new IV-E requirements on states that are not directly related to sex trafficking, including requiring states to:

- Implement a "reasonable and prudent parent standard," which provides foster parents with a greater voice in making decisions about a foster child's participation in age-appropriate activities -- a standard that already exists in California; and
- Empower foster youth age 14 or older to have a greater voice in the development of their case plans, including through the selection of two individuals to participate in their case planning.

H.R. 4058 also eliminates the current option to make Another Planned Permanent Living Arrangement (APPLA) the permanency goal of an abused or neglected child under age 16 when a child welfare agency has documented to the juvenile court that there is a compelling reason why APPLA is in the child's best interest as an alternative

to the goals of reunification with parents, adoption, or legal guardianship. Compelling reasons why APPLA (placement in long-term foster care) may be in the child's best interest may include that the child has an abusive parent with serious mental health or substance abuse problems, or the child has special needs or problems, such as physical, mental, or emotional disabilities, which make family reunification, adoption, or legal guardianship less beneficial for the child's safety and well-being. In addition, APPLA/long-term foster care (LTFC) may be determined to be in the child's best interest when the child has a relative who is willing to care for the child, but not be the child's adoptive parent or legal guardian, or when the child has siblings who do not want to be separated.

Without APPLA/LTFC as an option, more children would be returned to their parents, placing them at greater risk of abuse. Eliminating APPLA as a permanency goal also would force the Department of Children and Family Services (DCFS) to use more resources to recruit adoptive parents and legal guardians for hard to place children, such as those with disabilities and multiple siblings, and to ensure that the special needs of children can be met after they are placed with adoptive parents or legal guardians. Moreover, the County could be required to finance the entire increased cost if it is participating under a IV-E waiver which caps its Federal IV-E funding.

#### **H.R. 3610: Stop Exploitation Through Trafficking Act**

On May 20, 2014, the House passed, by a voice vote, H.R. 3610 (Paulsen, R-MN), which seeks to encourage states to enact "safe harbor" laws which discourage the prosecution of minors for prostitution and, instead, treats them as trafficking victims who should be provided specialized services by giving preference in the awarding of COPS hiring grants to applicants in states with such laws. Law enforcement agencies in California would not qualify for a preference in securing a COPS hiring grant award because the State does not have such a "safe harbor" law. Securing a COPS hiring grant is very competitive because the demand for such grants far exceeds available funding. The County's Sheriff's Department most recently was awarded a COPS grant in FFY 2011 when it received approximately \$8.5 million. For FFY 2014, \$180 million was appropriated for COPS hiring grants.

The bill also would require the Department of Health and Human Services to fund a national human trafficking hotline to assist trafficking victims in communicating with service providers, beginning in FFY 2017.

### **H.R. 4225: Stop Advertising Victims of Exploitation Act**

On May 20, 2014, the House passed, by a voice vote, H.R. 4225 (Wagner, R-MO), which is intended to prevent the advertising of acts of commercial sexual trafficking, including, but not limited to, advertising on the Internet. It amends current Federal sex trafficking laws to add the advertising of certain commercial sex acts, including sex with minors, to the Federal crime of the sex trafficking of minors. While the bill passed on a voice vote, a number of Democrats voiced concern that this crime would be subject to mandatory minimum prison sentencing penalties of 10 to 15 years to which they object. When H.R. 4225 was marked up in the House Judiciary Committee on April 30, 2014, an amendment by Representative Scott (D-VA) to not apply mandatory minimum sentences to advertising offenses was defeated, 8 to 20, along party lines.

### **H.R. 4573: International Megan's Law to Prevent Demand for Child Sex Trafficking**

On May 20, 2014, the House passed, by a voice vote, H.R. 4573 (Smith, R-NJ), which would require the Department of Homeland Security to establish a center that would notify foreign governments, as appropriate, of the foreign travel of child sex offenders, and that also would provide warnings to offenders if it believes that its notification to a foreign government would endanger an offender's life or well-being. It is modeled after "Megan's Law" -- a law which encourages states to protect children by identifying the whereabouts of sex offenders and providing the means to monitor their activities.

### **Senate Outlook**

There is strong bipartisan interest in addressing child sex trafficking in the Senate, which has not scheduled action on any of the House bills and is likely to pass its own child sex trafficking bills. The Senate Finance Committee has reported the Supporting At-Risk KIDS Act (S. 1870), which includes some child sex trafficking and Title IV-E provisions similar to those contained in H.R. 4058, including the elimination of the APPLA option for children under age 16. S. 1870, however, differs from H.R. 4058 in so far as it also includes provisions affecting other programs, including Child Support Enforcement, Unemployment Insurance, and Adoption Incentive Payments.

We will continue to keep you advised.

WTF:RA  
MR:MT:ma

c: All Department Heads  
Legislative Strategist